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**RESPONSE TO OEPA STIPULATIONS FOR
INSTALLATION AND OPERATION OF THE
GLOVE BOX FOR TREATABILITY TESTING**

11-6-91

DOE/OEPA

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LETTER



Department of Energy
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DOE-23-91

Thomas A. Winston, P.E.
Acting Assistant Director
Ohio Environmental Protection Agency
40 S. Main Street
Dayton, Ohio 45402

Dear Mr. Winston:

**RESPONSE TO OEPA STIPULATIONS FOR INSTALLATION AND OPERATION OF
THE GLOVE BOX FOR TREATABILITY TESTING**

- References: 1) Letter, T. Winston to Bobby Davis, dated September 27, 1990
- 2) Letter, B. Davis to C. McCord and G. Mitchell, "Information Submittal Under Paragraph XIII (B) of the 1990 CERCLA Consent Agreement - Glove Box Treatability Testing" (DOE-1722-90), dated August 14, 1990.

This is in response to your September 27, 1990 letter (Reference 1) regarding the glove box treatability testing for the K-65 silo residues.

Stipulations 2 through 5 of your letter are considered substantive requirements and as stated in Reference 2, all substantive requirements will be met. However, stipulations 1, 6 and 7 are "administrative"-type requirements. Our responses to these stipulations are as follows:

- 1) The Glove Box will be installed in the Pilot Plant Maintenance Building at FMPC.

Plans call for the glove box to be installed in the Pilot Plant Maintenance Building. However, the location of the glove box is not crucial. The FMPC agrees to notify OEPA if a decision is made to change the location of the glove box.

- 2) The glove box will be operated for the purpose of performing feasibility analyses on the K-65 silo residue samples and that such analyses will be completed by January 31, 1991.

Plans support a completion date of January 31, 1991. However, it may be necessary to continue treatability testing beyond this date. The FMPC agrees to notify OEPA when the operation of the glove box has been discontinued.

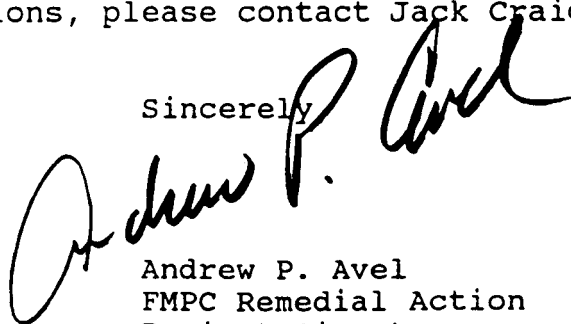
- 3) Upon completion of the K-65 residue analyses, the glove box will be removed from service and not operated again until DOE has obtained any applicable permits or approvals from Ohio EPA.

There are no plans for further use of the glove box after completion of the K-65 silos residue treatability testing. Should the need for additional use of this equipment develop in the future, the FMPC agrees to notify OEPA of any CERCLA related use of the equipment, or to obtain all applicable permits or approvals prior to use of the equipment for non-CERCLA related use.

Finally, our position remains unchanged with respect to the need to submit a permit application under Ohio Administrative Code Rule 3745-35. We continue to believe that Section 121 (e) of CERCLA exempts the use of the glove box for treatability testing from State permitting requirements. The intent of the CERCLA exemption was to eliminate potential delays in clean-up activity due to the need to obtain all normally required permits. We can not support a delay in the glove box treatability testing associated with the preparation and submittal of a permit application. We believe that the information previously submitted demonstrates that the substantive requirements of the Ohio Administrative Code will be satisfied.

If your staff has any questions, please contact Jack Craig at 513 738-6159.

Sincerely,



Andrew P. Avel
FMPC Remedial Action
Project Director

DP-84:Craig

cc:

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